

Forward Plan reference number: (N/A)

Report title: *“This COA to agree the Strategic Outline Case for the A127 Air Quality Action Plan at locations in Basildon and Rochford for submission to Defra*

Report author:
*Beverley Gould,
Principal Transport Strategy & Engagement Officer
Anne James,
Project Manager, EssexHighways*

Date: *(Of meeting or date when report finalised)*

For: Decision

Enquiries to: *Beverley Gould, Principal Transport Strategy & Engagement Officer
Beverley.gould@essex.gov.uk 03330136697*

County Divisions affected: *Laindon Park & Fryerns; Wickford Crouch; Rayleigh South; Hadleigh*

1. Purpose of Report

The report sets out the strategic options for tackling the nitrogen dioxide (NO₂) concentrations at three locations on the A127 as it passes through Basildon and Rochford where the NO₂ concentrations are above the permitted level of 40 micrograms.

2. Recommendations

The recommendation is to approve the Strategic Outline Case as set out in Appendix 1 to allow the development of the Outline Business Case and subsequent Final Business Case to be presented for approval by Key Decision prior to submission to Defra in December 2018.

3. Summary of issue

3.1. In July 2017, Defra published the National Air Quality Plan. The plan identified three locations on the A127 in Basildon and Rochford areas.

3.2. The levels of Nitrogen Dioxide (NO₂) at the three locations on the A127 as it passes through Basildon and Rochford are above the European permitted level of 40 micrograms. The NO₂ levels are as a result of traffic along the route. A Ministerial Directive has been issued to Basildon Borough Council and Rochford District Council to implement actions to bring the levels into

compliance in the shortest possible time. As the source of the NO₂ exceedance is traffic based, Essex County Council as Highway Authority is working in Partnership with Rochford DC and Basildon BC.

- 3.3. The business cases will be submitted to Defra as joint cases approved by the two Responsible Authorities for Air Quality, Basildon BC and Rochford DC and Essex County Council as Highway Authority.
- 3.4. The A127 is the primary strategic traffic route through South Essex between the M25 and Southend and links to London Southend Airport and key port locations of London Gateway Port and Port of Tilbury. The route is also key to delivering significant growth in the South Essex area within the next Local Plan periods up to 2035 and beyond.

4. Options

- 4.1. Due to the Ministerial Directive and a number of High Court rulings doing nothing is not an option. A plan of action must be put in place to bring compliance in the shortest possible time.
- 4.2. The options being considered have been derived from an investigation into all possible options for reducing NO₂ levels. The initial options were scored against the criteria below:

Critical Success Factors

Defra have set out the critical success factors (CSF) in their Guidance. These are listed below:

- CSF1: Is the measure likely to materially contribute to achieving the primary objective?
- CSF2: Does the measure deliver good value for money?
- CSF3: Does the measure significantly affect one or a number of particular groups of stakeholders?
- CSF4: Does this measure fit and/or complement other existing and planned policies?
- CSF5: Is there a sufficiently well-developed market to support the efficient delivery of the measure?
- CSF6: Is the measure likely to be affordable in both the short and long run in comparison to other measures considered?
- CSF7: Given market conditions, are adequate resources available to manage and implement such a measure successfully?
- CSF8: Can the impacts of this intervention be quantified in a robust way?

- 4.3. The Officer working group developed an initial long list of options (Appendix 2). These were then scored and reviewed and a short list of options has been prepared (Appendix 3) for inclusion in the Strategic Outline Case.
- 4.4. Packages of the short listed options have been prepared and are presented in Appendix 4.

- 4.5. The options that are deliverable within the shortest possible time have been identified within the Strategic Outline Business Case (Appendix 1). The options being taken forward and rationale for those choices have been tested with officers from Defra to ensure that the list is robust and defensible if the choice of options are subsequently challenged.
- 4.6. If a package of measures identifies activities outside policy or guidance these will be subject to the normal Local Authority consultation and approvals process.
- 4.7. The options to be taken forward to be considered for the Outline Business Case will be investigated further prior to the options being included in a Key Decision for approval of the Outline Business Case to be submitted to Defra by the deadline date 30 November 2018
- 4.8. The Ministerial Directives issued by Defra indicate that the preferred option for tackling the NO₂ levels is the introduction of a Controlled Air Zone (CAZ) and that this should be the benchmark option against which all other options and timescales are measured.
- 4.9. As the A127 is the strategic traffic route serving South Essex this option is not considered appropriate for the reasons stated below:
- 4.9.1. It is against the transport policy as set out in the Local Transport Plan which identifies the A127 as the strategic route for traffic in the area
- 4.9.2. It would divert traffic onto unsuitable routes and through town centres and residential areas and result in increases in air pollution in those areas
- 4.9.3. It would discourage growth in the region
- 4.9.4. It could have an adverse regional economic impact if goods and service relocated away from the region

State why a particular option is preferred and what the risks are and how they will be mitigated.

- 4.10. The proposed Benchmark option is the option that results in compliance in the shortest possible time and with the minimum cost implication.
- 4.11. The short list of schemes in Appendix 3 are those that can be delivered both in the shortest possible time and can bring about compliance with the Air Quality levels by 2021. They are also schemes that align with the County Council's Transport Strategy and will not have a detrimental impact on the economic growth planned for South Essex.
- 4.12. The risks are set out in a comprehensive risk register. There is a significant risk that if all necessary measures are not taken to bring about compliance with the legal Air Quality target then there will be a legal challenge against Defra and the two responsible Authorities, Basildon and Rochford. Previous challenges in the High Court by Client Earth have been upheld. The

most recent in February 2018 which found against Defra. Defra are not appealing the outcome.

- 4.13. The options in the shortlist are those that can be delivered and support the required reduction in NO₂ levels within the required time frame and in the shortest possible time as set out by the High Court

5. Issues for consideration

Financial implications (this is MANDATORY for all decisions that have a financial implication and for a Key Decision or Cabinet decision):

- 5.1. The project and resulting mitigation to be implemented will be funded by Defra through grant award to Basildon BC and Rochford DC.
- 5.2. Rochford DC and Basildon BC have commissioned Jacobs through the EssexHighways Contract, under a 3rd Party Agreement, to develop the A127 Air Quality Action Plan.
- 5.3. There are no financial implications for Essex County Council approved budget.

Legal implications (this is MANDATORY for a Cabinet Member Decision or Cabinet decision):

- 5.4. A Ministerial Directive has been issued to Basildon Borough Council and Rochford District Council, the responsible authorities for Air Quality, to implement actions to bring the levels into compliance in the shortest possible time. There have also been a number of High Court judgements.
- 5.5. Therefore Basildon BC and Rochford DC are legally required to identify and implement mitigations as set out the Final Business Case. As the source of NO₂ is traffic / highway based, ECC as Highway Authority is working in partnership with the two responsible authorities to implement measures in the shortest possible time.

The following must be included for Key Decisions or Cabinet reports (you can delete this page and the final page if this report is not intended to be a formal decision – but please remember to consider the equality impacts in all cases.)

6. Equality and Diversity implications

- 6.1. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

6.3. The Equalities Impact Assessment (EqIA) (Appendix 5) indicates that the proposals in the Strategic Outline Case should not have a disproportionately adverse impact on any people with a particular protected characteristic. This assumption will be tested through engagement with relevant stakeholders, as set out in the EqIA action plan, to ensure they are aware of the issues and can contribute to the development of the Air Quality action plan to tackle the NO₂ levels

7. List of appendices

- Appendix 1 – Strategic Outline Business Case (SOBC)
- Appendix 2 – Long list of possible schemes (SOBC Appendix C)
- Appendix 3 – Short list of achievable schemes (SOBC Appendix D)
- Appendix 4 – Packages of measures
- Appendix 5 – Equalities Impact Assessment

8. List of Background papers

- National Air Quality Plan for nitrogen dioxide (NO₂) in UK (2017) Defra Published 26 July 2017. Last updated 21 December 2017
 - UK plan for tackling roadside nitrogen dioxide concentrations: an overview
 - UK plan for tackling roadside nitrogen dioxide concentrations: detailed plan
 - Technical Report
 - Supporting document: Environment Act 1995 Air Quality Directions 2017
- Essex County Council Local Transport Plan 2012

I approve the above recommendations set out above for the reasons set out in the report.	Date
	19.03.2018
Andrew Cook;	
Director for Commissioning Transport and Infrastructure	